APPENDIX B

STATE OF INDIANA)		IN THE LAPORTE
COUNTY OF LAPORTE)	SS:	CIRCUIT COURT
		LAPORTE, INDIANA
ARNOLD G. HOBBS		)
Petitioner		)
		)
V		) CAUSE NO.
		)
WARD LANE, as Warden of		)
the Indiana State Prison,		)
		)
Respondent		)

VERIFIED PETITION FOR A WRIT OF HABEAS CORPUS

TO: The Honorable Alban M. Smith, Presiding Judge of the above entitled Court.

Comes now ARNOLD G. HOBBS, as the Petitioner herein, and complains of the Respondent, WARD LANE, as Warden of the Indiana State Prison, and for cause of action arising under the laws and Constitution of Indiana and the 14th Amendment to the Constitution of the United States of America, petitions and says:

1. That the petitioner was indicted by the Grand Jury of Noble County, Indiana, said grand jury indictment based upon Burns 10-1704, upon a charge of embezzlement, a certified copy of which said indictment is filed herewith, made a part hereof, and marked Exhibit "A".

2. That thereafter the venue of this cause was changed to the Circuit Court of Allen County, Indiana, and upon arraignment the petitioner entered a Plea of Not Guilty and demanded trial by jury as provided by the Constitution of the State of Indiana.

3. That thereafter on the 27th day of May, 1959, a jury was duly impaneled, and sworn to try said cause, certi-

fied copies of said Order Book showing said proceedings beginning with the beginning of said trial, on May 27, 1959, to and including the final verdict and judgment, are attached hereto, made a part hereof, and marked Exhibit "B".

4. Petitioner further avers that on the 2nd day of June, 1959, as shown by Exhibit "B", aforesaid, that pursuant to the constitution of the State of Indiana, the jury duly impaneled returned the following verdict:

> "We, the jury, find the defendant guilty and that he is 33 years of age. Signed James E. Pletcher, Foreman."

5. Petitioner further says that thereafter the presiding trial Judge, the Honorable William E. Schannen, totally ignoring the verdict of the jury, which verdict by law imposed upon this petitioner the minimum sentence of only two years, under the **determinate** sentence law, with the fine of one dollar ($1.00), that said Judge did enter the following judgment, to-wit:

> "And the defendant now being asked if he has anything to say why sentence should not be pronounced, gives no sufficient reason.
> It is, therefore, ordered, adjudged and decreed by the Court that the said defendant, Arnold G. Hobbs, is guilty of the offense of Embezzlement, as charged in the indictment, and that he be and he is hereby committed to the custody and control of the Warden of the Indiana State Prison for a period of fifteen (15) years, and that he be fined in the penal sum of One Thousand Dollars ($1,000.00), and that he pay and satisfy the costs herein taxed."

6. Petitioner further says that thereafter a committment was issued upon said judgment and sentence and he was subsequently escorted to, and confined in, the Indiana State Prison, pursuant to said committment, which incarceration in said Indiana State Prison began June 17, 1959, and that this said petitioner has been confined continuously therein ever since and is now therein confined, and detained solely

under the authority of said committment, so issued on a judgment which is void in part.

7. That all time beyond the period of two years, which was imposed upon this petitioner by said Allen Circuit Court, is completely void and without legal force and effect and said court was without jurisdiction and authority to impose said additional 13 years and also was without authority or jurisdiction to impose a fine in excess of $1.00, and that the said respondent cannot justify further imprisonment and detention of this said petitioner thereunder, in that petitioner's continued confinement under color of the present committment of sentence is, therefore, contrary to the law and violative of the "Due Process" clause of the 14th Amendment of the Constitution of the United States of America, in that, since the Acts of 1927 were passed by the Indiana State Legislature and right up to this present day in Chapter 200, Acts 1927, page 574, INDIANA HAS PROVIDED FOR THE FIXING OF A PUNISHMENT FOR ALL CRIMES PUNISHABLE BY A DETERMINATE PERIOD OF TIME.

> "An act concerning public offenses and repealing all laws and parts of laws in conflict with the provisions of this act.
> **VERDICT:** Sec. 1 - Be it enacted by the General Assembly of the State of Indiana, That, when the defendant is found guilty, the jury, except in the next three (3) sections (the indeterminate sentence law) **MUST STATE,** in the verdict, the amount of fine and the punishment to be inflicted; where the plea is guilty, or the trial is by Court, the Court, subject to the same exceptions, shall assess the amount of fine and fix the punishment to be inflicted." See also: Burns' Ann. St. Rep. 1942, Sec. 9-1819:

8. Petitioner further avers that the illegality of his present detention and restraint by Respondent consists in the following matters, to-wit:

(a) That on May 1, 1957, the date alleged in the indictment as the time of offense charged, and at all times thereafter in this cause, certain constitutional and statutory

provisions applicable to this cause were in full force and effect in Indiana as follows:

> "Every . . . employee . . . of any . . . financial institution, . . . who, having access to, control or possession of any money, . . . to the possession of which his employer is entitled, shall, while in such employment, take, purloin, secrete or . . . appropriate to his own use . . . any money . . . deposited with or held by such . . . financial institution . . . shall be deemed guilty of embezzlement, and, on conviction, shall be imprisoned in the state prison for any determinate period of not less than two (2) years nor more than twenty (20) years and in addition to such imprisonment shall be fined not less than one dollar ($1.00) nor more than one thousand dollars ($1,000.00) . . ."

Burns' Indiana Statutes, Sec. 10-1704, 1956 Repl.

> "In all criminal prosecutions, the accused shall have the right to a public trial, by an impartial jury, ..."

Article 1, Section 13, Indiana Constitution.

> "In all criminal cases whatever, the jury shall have the right to determine the law and the facts."

Article 1, Section 19, Indiana Constitution.

9. That petitioner's Exhibit "B" shows that this cause was submitted for trial to a jury, and that the jury had the absolute right and duty to fix the amount of fine and penalty to be imposed within the limits of Section 10-1704.

10. That the jury's verdict in this cause, being silent as to the punishment to be inflicted, and merely finding the petitioner herein guilty as charged in the indictment, was a verdict by which the jury intended to and did fix such punishment at the minimum prescribed in Section 10-1704, supra, namely, imprisonment for determinate term of two years and a fine of One Dollar ($1.00).

11. That under the law, following the verdict of the

jury, it became the mandatory duty of the trial judge to then pronounce a judgment and sentence in conformity with the verdict of the jury, and the verdict of the jury meaning and intending to be only for the minimum time, namely two years imprisonment and a fine of $1.00; that the actions of the trial judge in arbitrarily imposing a sentence of 13 years in excess of the jury verdict, and a fine of $999.00 in excess of the verdict of the jury, invaded the exclusive province of the jury, and that the record of said trial judge in attempting to impose 13 additional years imprisonment and $999.00 additional fine, was wholly without right, illegal and void; but that that portion of the judgment and sentence for two years imprisonment and $1.00 fine is valid and follows the verdict of the jury.

12. That that portion of said sentence and judgment being in excess of the verdict of the jury, as hereinbefore set out and charged, is wholly void, illegal and without color of right or authority.

13. That on this date, namely September 19, 1963, this petitioner has now served in excess of four years and three months imprisonment under the terms of said committment, which describes said judgment hereinbefore set out in this petition; that he has, therefore, served over and above any and all lawful punishments and penalties imposed by the jury in this cause and legally imposed by the trial court; that his present and continued imprisonment and restraint by respondent is wholly by authority of the void portion of the judgment and committment, which portion and particular judgment by the trial court was rendered without jurisdiction in this cause; that the petitioner's present imprisonment is, therefore, without right, illegal, and in violation of the due course of law provision of Article one, Section 12, Indiana Constitution, and also the due process and equal protection clause of the 14th Amendment of the Constitution of the United States.

14. Petitioner further avers that the LaPorte Circuit Court has jurisdiction to entertain this application for writ of habeas corpus and to grant relief as prayed for therein; and that said court, under the authority of the constitution

of the State of Indiana, has the power and authority to issue a writ of habeas corpus for the presence of this petitioner, upon the filing of said petition, and to inquire into the facts and matters set out in the Exhibits herein, which includes, and in fact is addressed specifically to that portion of the record of said Allen Circuit Court, upon which said committment under which the petitioner is restrained in his liberty, is absolutely void, without right, and of no force and effect in that the Allen Circuit Court, upon the jury being discharged by the imposition of the judgment of said court, lost all further jurisdiction of said cause, and the only jurisdiction the Allen Circuit Court had, after the verdict of the jury was returned, was to enter a judgment and sentence in conformity with the verdict of the jury; but said Allen Circuit Court was not a court of competent jurisdiction to impose and assess against Petitioner any term, punishment or penalty beyond and in excess of that authorized by said verdict; and that that portion of the term actually imposed in this cause in excess of that authorized by said verdict is **coram non judice** and void and the Respondent is without lawful authority to further detain Petitioner by virtue of such excess portion.

15. That petitioner is serving a true and complete copy of the instant petition to the Honorable Edwin K. Steers, Attorney General of Indiana and attorney for the Respondent in this cause, by United States Mail Service.

WHEREFORE, for each and all of the foregoing reasons, petitioner respectfully moves the Court to issue a Writ of Habeas Corpus to the Respondent, WARD LANE, as Warden of the Indiana State Prison, commanding him to produce the body of this petitioner in this Honorable Court at a date and time to be therein specified, to the end that due inquiry may be had into the matters herein alleged, and the said Arnold G. Hobbs be granted his freedom from further confinement and given a final discharge, in accordance with law and justice, and for all other proper relief in the premises.

Respectfully submitted,

/s/ Arnold G. Hobbs
ARNOLD G. HOBBS, #30600

Box 41
Michigan City, Indiana
/s/ Probst & Probst
PROBST & PROBST
Attorneys for petitioner
132 1/2 S. Main Street
Kendallville, Indiana

STATE OF INDIANA)
) SS:
COUNTY OF LAPORTE)

ARNOLD G. HOBBS, petitioner in the foregoing petition, who being first duly sworn upon his oath, deposes and says that he is the petitioner in the above matter, and that he has read all of said petition and all of said exhibits and that all of the contents are true to the best of his knowledge, information, and belief.

/s/ Arnold G. Hobbs
ARNOLD G. HOBBS

Subscribed and sworn to before me this 19th day of September, 1963.

/s/ Ralph W. Probst
Notary Public

(Seal)

My commission expires: Aug. 14, 1967

FILED
OCT. 22, 1958
Kenneth Barnum
Clerk Noble Circuit Court

Petitioner's Exhibit A-1-2

STATE OF INDIANA)
) SS:
COUNTY OF NOBLE)

CAUSE NO. 5286
IN THE NOBLE CIRCUIT COURT
SEPTEMBER TERM, 1958

THE STATE OF INDIANA)
) INDICTMENT FOR
VS.) EMBEZZLEMENT
)
ARNOLD G. HOBBS)

The Grand Jury of the county of Noble, in the state of Indiana, duly and legally impaneled, charged and sworn during the September term of the Noble Circuit Court for the year A.D., 1958, to inquire into felonies and certain misdemeanors in and for the body of said county of Noble, in the name and by the authority of the state of Indiana, upon their oaths do present that on or about the 1st day of May, 1957, at the county of Noble and in the State of Indiana, one Arnold G. Hobbs, being then and there the employee of the Noble County Credit Union, a financial institution, duly organized under the laws of the State of Indiana, and was employed by said Noble County Credit Union as its manager, and said Arnold G. Hobbs as such employee and manager and by virtue of being such manager and of such employment did then and there have access to, control and possession of certain money, to the possession of which said Noble County Credit Union was entitled, the said Arnold G. Hobbs did then and there, while such manager and in such employment unlawfully and feloniously, take, purloin, secrete and appropriate to his own use the sum of One Thousand Six Hundred Dollars.

Exhibit "A"

($1,600.00) which was then and there deposited with and held by said Noble County Credit Union, contrary to the form of the statutes in such cases made and provided and against the peace and dignity of the State of Indiana.

/s/ Louis G. Ketcham
Prosecuting Attorney
33rd Indiana Judicial
Circuit

A TRUE BILL
Edward C. Cureton
as Foreman, Grand Jury

Filed and recorded this 22 day of Oct. 1958.

/s/ Kenneth Barnum
Clerk, Noble Circuit Court

APPROVED BY ME:
/s/ Louis G. Ketcham
Louis G. Ketcham
Prosecuting Attorney
33rd Indiana Judicial Circuit

Witnesses:
Darwin Freck
Fay Palm
Carey Davis
Eva Belle Malott

Earl S. Ott

Attest:
The above and foregoing is a true and perfect copy of

Indictment

for

Embezzlement

State of Indiana

vs.

Arnold G. Hobbs 8676

as the same appears and remains on record in my office.
Witness my hand and seal this 16th day of September 1963

/s/ Elton L. Marquart
Clerk

(Seal)

No. 8676

CIRCUIT COURT

State of Indiana
vs.
Arnold G. Hobbs

CERTIFIED COPY OF
A Court Order

PLEAS before the Hon. William H. Schannen, Judge of the Circuit Court of Allen County, State of Indiana, at a regular term of said Court, held at the Court House in the City of Fort Wayne, County of Allen, State of Indiana, commencing on Monday, the ..... day of ..... A.D., 19...., to wit:

Petitioner's Exhibit
B-1-2-3-4-5-6

State of Indiana
vs. 8676
Arnold G. Hobbs

BE IT REMEMBERED, that on the 27th day of May A.D., 1959, the same being the 33rd Judicial day of the April Term, 1959, of said Court, held at the said Court House, before the Honorable Judge aforesaid, the following Order was made in the above entitled cause by said Court to-wit:

Comes now the State of Indiana, by Louis G. Ketcham, Prosecuting Attorney, Noble (sic) County, Indiana, and C. A. Lincoln, Special Prosecuting Attorney for Noble County, Indiana, and comes now the defendant, Arnold G. Hobbs, in person and by counsel, Ralph W. Probst, and this cause now being at issue, the same is submitted for trial to a Jury composed of the following named persons, to-wit:

James Pletcher	Irwin Shreve
Dwight Foulks	Paul F. Bender
Joseph Welling	Gordon E. Emrich
John J. Lohse	Henry Pliett
Glenn Ross	Harland B. Ford
Stanford Gerardot	Clair H. Reed

twelve good and lawful householders or freeholders of this County, and legal voters therein, duly impanelled and sworn to try the same.

Comes now the defendant herein and tenders four (4) preliminary instructions, which are in the following words and figures, to-wit: (H.I.). The Court now refuses to give defendant's preliminary instructions numbered 1 to 4 to the Jury.

The Court now gives to the Jury its preliminary instructions numbered 1 and 2, which preliminary instructions are in the following words and figures, to-wit: (H.I.).

Comes now the State of Indiana, by Louis G. Ketcham, Prosecuting Attorney, Noble County, Indiana, and makes its opening statement to the Jury.

Comes now the defendant, by Ralph W. Probst, Attorney, and makes his opening statement to the Jury.

Comes now the defendant and files motion for separation of witnesses, which motion is in the following words and figures, to-wit: (H.I.), and which motion is now by the Court denied.

Comes now the State of Indiana and introduces its evidence in part, and this cause is now by the Court continued for further evidence until May 28, 1959, at 9:00 o'clock A.M.

Exhibit "B-1"

STATE OF INDIANA, COUNTY OF ALLEN:

I, Elton L. Marquart, Clerk of the Allen Circuit Court, in and for said County and State, certify that the above and foregoing is a full, true, and perfect copy of A Court Order entered and signed in the above-entitled cause by said court, as the same appears and remains on record in Order Book 116, page 49 of said Court, in my office.

In Testimony Whereof, Witness my name and the seal of said Court hereto subscribed and affixed, at the City of Fort Wayne, this the 16th day of September A.D., 1963.

/s/ Elton L. Marquart
Clerk Allen Circuit Court

(SEAL)

No. 8676
Circuit Court

State of Indiana
vs.
Arnold G. Hobbs

CERTIFIED COPY OF
A Court Order

PLEAS before the Hon. William H. Schannen, Judge of the Circuit Court of Allen County, State of Indiana, at a regular term of said Court, held at the Court House in the City of Fort Wayne, County of Allen, State of Indiana, commencing on Monday, the ..... day of ..... A.D., 19...., to wit:

State of Indiana

vs. 8676

Arnold G. Hobbs

BE IT REMEMBERED, that on the 28th day of May A.D., 1959, the same being the 34th Judicial day of the April Term, 1959, of said Court, held at the said Court House, before the Honorable Judge aforesaid, the following court order was made in the above entitled cause by said Court to wit:

Comes now the State of Indiana, by Louis G. Ketcham, Prosecuting Attorney, Noble County, Indiana, and C. A. Lincoln, Special Prosecuting Attorney for Noble County, Indiana, and comes now the defendant, Arnold G. Hobbs, in person and by counsel, Ralph W. Probst, and this cause having been continued for further evidence, the hearing of evidence by the State is now resumed and not being concluded, this cause is now by the Court continued to May 29, 1959, at 9:00 o'clock A.M., for further evidence by the State.

Exhibit "B-2"

STATE OF INDIANA, COUNTY OF ALLEN:

I, ELTON L. MARQUART, Clerk of the Allen Circuit Court, in and for said County and State, certify that the above and foregoing is a full, true and perfect copy of A Court Order entered and signed in the above entitled cause by said court, as the same appears and remains on record in Order Book 116, page 51 of said Court, in my office.

In Testimony Whereof, Witness my name and seal of said Court hereto subscribed and affixed, at the City of Fort Wayne, this the 16th day of September A.D., 1963.

/s/ Elton L. Marquart
Clerk Allen Circuit Court

(SEAL)

No. 8676
CIRCUIT COURT

State of Indiana
vs.
Arnold G. Hobbs

CERTIFIED COPY OF
A Court Order

PLEAS before the Hon. William H. Schannen, Judge of the Circuit Court of Allen County, State of Indiana, at a regular term of said Court, held at the Court House in the City of Fort Wayne, County of Allen, State of Indiana, commencing on Monday, the ..... day of ..... A.D., 19...., to wit:

State of Indiana
vs. 8676
Arnold G. Hobbs

BE IT REMEMBERED, that on the 29th day of May A.D., 1959 the same being the 35th Judicial day of the April Term, 1959, of said Court, held at the said Court House, before the Honorable Judge aforesaid, the following Court order was made in the above entitled cause by said Court to wit:

Comes now the State of Indiana, by Louis G. Ketcham, Prosecuting Attorney, Noble County, Indiana, and C. A. Lincoln, Special Prosecuting Attorney for Noble County, Indiana, and comes now the defendant, Arnold G. Hobbs, in person and by counsel, Ralph W. Probst, and this cause having been continued for further evidence, the hearing of further evidence by the State is now resumed, and not being concluded, this cause is now by the Court continued until June 1, 1959, at 9:00 o'clock A.M.

Exhibit "B-3"

STATE OF INDIANA, COUNTY OF ALLEN:

I, ELTON L. MARQUART, Clerk of the Allen Circuit Court, in and for said County and State, certify that the above and foregoing is a full, true and perfect copy of A Court order entered and signed in the above entitled cause by said

court, as the same appears and remains on record in Order Book 116, page 54 of said Court, in my office.

In Testimony Whereof, Witness my name and the seal of said Court hereto subscribed and affixed, at the City of Fort Wayne, this the 16th day of September A.D., 1963.

/s/ Elton L. Marquart
Clerk Allen Circuit Court

(SEAL)

No. 8676
CIRCUIT COURT

State of Indiana
vs.
Arnold G. Hobbs

CERTIFIED COPY OF
A Court Order

PLEAS before the Hon. William H. Schannen, Judge of the Circuit Court of Allen County, State of Indiana, at a regular term of said Court, held at the Court House in the City of Fort Wayne, County of Allen, State of Indiana, commencing on Monday, the ..... day of ..... A.D., 19...., to wit:

State of Indiana
vs. 8676
Arnold G. Hobbs

BE IT REMEMBERED, that on the 1st day of June, A.D., 1959, the same being the 37th Judicial day of the April Term, 1959, of said Court, held at the said Court House, before the Honorable Judge aforesaid, the following Court Order was made in the above entitled cause by said Court to wit:

Comes now the State of Indiana, by Louis G. Ketcham, Prosecuting Attorney, Noble County, Indiana, and C. A. Lincoln, Special Prosecuting Attorney for Noble County, Indiana, and comes now the defendant, Arnold G. Hobbs, in person and by counsel, Ralph W. Probst, and this cause having been continued for further evidence, the hearing of evidence is now resumed.

Comes now the defendant and files motion to strike all evidence given by Darwin G. Freck, which motion is in the following words and figures, to-wit: (H.I.), and which motion is now by the Court overruled.

After further cross-examination of the witness Darwin G. Freck, the State rests.

Comes now the State of Indiana and gives rebuttal evidence in part, and this cause is now by the Court continued to June 2, 1959, at 9:00 o'clock A.M.

Exhibit "B-4"

STATE OF INDIANA, COUNTY OF ALLEN:

I, ELTON L. MARQUART, Clerk of the Allen Circuit Court, in and for said County and State, certify that the above and foregoing is a full, true and perfect copy of A Court Order entered and signed in the above entitled cause by said court, as the same appears and remains on record in Order Book 116, page 57 of said Court, in my office.

In Testimony Whereof, Witness my name and the seal of said Court hereto subscribed and affixed, at the City of Fort Wayne, this the 16th day of September A.D., 1963.

/s/ Elton L. Marquart
Clerk Allen Circuit Court

(SEAL)

PLEAS, before the Hon. William H. Schannen, Judge Allen Circuit Court, Allen County, State of Indiana, at a regular term of said court, held at the Court house in the City of Fort Wayne, County of Allen, State of Indiana, commencing on Monday, the ..... day of ..... A.D., 19...., to-wit:

State of Indiana
vs. 8676
Arnold G. Hobbs

BE IT REMEMBERED, that on the 2nd day of June A.D., 1959 the same being the 38th Judicial day of the April Term 1959, of said Court, held at the said Court House, before

the Honorable Judge aforesaid, the following Court order was made in the above entitled cause by said Court to-wit:

Comes now the State of Indiana, by Louis G. Ketcham, Prosecuting Attorney, Noble County, Indiana, and C. A. Lincoln, Special Prosecuting Attorney for Noble County, Indiana, and comes now the defendant, Arnold G. Hobbs, in person and by counsel, Ralph W. Probst, and this cause having been continued for the hearing of further rebuttal evidence, the hearing of further rebuttal evidence is now resumed and concluded and the State rests, and the defendant now rests.

At the conclusion of the evidence and before the commencement of the arguments of counsel, the State requests the Court to instruct the Jury wholly in writing, and tenders and requests the Court to give in its behalf, instructions numbered 1 to 13, both inclusive; and the Court indicates that it will give and read to the Jury of the aforesaid instructions tendered by the State, instructions numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13, and will refuse to give instruction numbered 6.

The Defendant requests the Court to instruct the Jury wholly in writing, and tenders and requests the Court to give, in his behalf, instructions numbered 1 to 13, both inclusive; and the Court indicates that it will read and give to the Jury of the aforesaid instructions tendered by the defendant, instructions numbered 1, 2, 3, 4, 6, 8, 12, and 13, and will refuse to give instructions numbered 5, 7, 9, 10, and 11.

The arguments of counsel are now had. At the conclusion of the arguments, the Court reads and gives to the Jury instructions numbered 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, and 13, tendered by the State, and refuses to give of said instructions tendered by the State, instruction numbered 6; and gives and reads to the Jury instructions numbered 1, 2, 3, 4, 6, 8, 12, and 13, tendered by the defendant, and refuses to give of said instructions tendered by the defendant instructions numbered 5, 7, 9, 10, and 11.

And all of said instructions are now signed and ordered filed and made a part of the record herein, (H.I.), all of which is accordingly done.

The Jury now retires for deliberation at 3:58 o'clock P.M. At 4:40 o'clock P.M. the Jury returns verdict in open Court in the following words and figures, to-wit:

Exhibit "B-5"

VERDICT

We, the Jury, find the defendant guilty and that he is 33 years of age.

(Signed) James E. Pletcher
Foreman

And the defendant now being asked if he has anything to say why sentence should not be pronounced, gives no sufficient reason.

"It is, therefore, orered, adjudged and decreed by the Court that the said defendant, Arnold G. Hobbs, is guilty of the offense of Embezzlement, as charged in the indictment, and that he be and he is hereby committed to the custody and control of the Warden of the Indiana State Prison for a period of fifteen (15) years, and that he be fined in the penal sum of One Thousand ($1,000.00) Dollars, and that he pay and satisfy the costs herein taxed.

Comes now the defendant, by counsel, and files motion in arrest of judgment, which motion is in the following words and figures, to-wit: (H.I.), and which motion is now by the Court set for hearing on June 8, 1959, at 9:00 o'clock A.M.

STATE OF INDIANA, COUNTY OF ALLEN:

I, ELTON L. MARQUART, Clerk of the Allen Circuit Court of Allen County, in and for said County and State, certify that the above and foregoing is a full, true and perfect copy of A Court Order entered and signed in the above entitled cause by said Court, as the same appears and remains on record in Order Book 116, pages 61 and 62, of said Court, in my office.

IN TESTIMONY WHEREOF, Witness my name and the seal of said Court hereto subscribed and affixed,

at the City of Fort Wayne, this the 16th day of September A.D., 1963.

/s/ Elton L. Marquart
Clerk

/s/ John W. Stellema
Clerk

(SEAL)

(R., p. 3, Line 26 to R., p. 27, Line 10)